

Town of Wilmington  
Board of Appeals  
Minutes – January 13, 2016

The Board of Appeals held a meeting in Room 9 at the Town Hall, 121 Glen Road, Wilmington, MA. The meeting was called to order at: 7:00 p.m. Charles E. Boyle, Edward Loud, Daniel Veerman, Anthony Barletta and Thomas Siracusa were present.

The next regularly scheduled Board of Appeals meeting will be February 10, 2016, at 7:00 p.m. in Room 9 at the Town Hall, 121 Glen Road, Wilmington, MA.

The Board reviewed and approved the minutes from December 9, 2015.

HOUSEKEEPING - Rules & Regulations - all members were given a copy of the proposed changes. The Chairman explained that it had to be brought up at one hearing and voted on at the next meeting.

2.4 Quorum – A quorum for the purpose of conducting hearings and transacting other business of the Board of Appeals is as followed as defined in M.G.L. ch 40A Sec. 9 (special permits) and Sec. 15 (variances and appeals) and Sec. 21 (comprehensive permits)

- Comprehensive Permits requires a positive vote of three members of the five member board.
- Special Permit requires a positive vote of four members of the five member board.
- Variances and Appeals requires a concurring vote of four member of the five member board.
- Where the board lacks quorum at a scheduled hearing, the chairperson should indicate that the hearing will be continued to a date, time and place certain. Where the board has only the bare minimum to meet quorum, the applicant will be afforded an opportunity to schedule a continued hearing at which absent members may participate; otherwise, the applicant will need the unanimous vote of those present.

Continued

Case 20-15

Tresca Brothers

Map 38 Parcel 3A & B

To acquire a Special Permit in accordance with §3.6.6 Manufacturing use in a General Industrial Zone for property located on 90 Eames Street.

Case 21-15

Tresca Brothers

Map 38 Parcel 3A & B

To acquire a Special Permit in accordance with §6.6.7.7 Ground Water Protection District for property located on 90 Eames Street.

Attorney Scott Spears was present for Tresca. Daniel Mills, Traffic Engineer, did a presentation on the truck turning at the intersection of Eames and Woburn Street demonstrating that both the mixer and aggregate trucks stayed within the yellow lines when turning onto Woburn Street. Alex Rothchild from Arcadis went over the Noise results. The applicants were agreeable with concrete storage off site. Attorney Lipkin, representing Benevento's, introduced Greg Tocci of Cavanaugh/Tocci, who made a presentation on the noise impact. Edward Loud questioned the tailgate bangs brought up in this report. After checking, 18 per day, none between 5 and 6 a.m. and none after 3 p.m. - 1 or 2 an hour. Anthony Barletta felt most of this was background noise and wondered why two of the locations on the Tocci report were different than the locations on the applicant's noise report and would this skew the results? Attorneys Scott Spears and Alan Lipkind, the Board, Alex Rothchild, Daniel Mills and Bill Snyder discussed noise, back up alarms, tailgate slams, truck sizes and trip generation. Attorney Scott Spears stipulated that they would find an alternate to the bulk distribution truck. Robert Peterson, an abutter had issues with the noise. Dave Robertson, who works with Rep. Miceli wanted to go on record regarding the possible changes to the area, possibly Transrail, the Boston Street bridge and a new intersection design. John Martin, an abutter, stated that flyash was considered hazardous and was not in favor of this type of operation in the area. Attorney Lipkind felt that the two noise reports were radically different. Edward Loud was not convinced that noise was the problem. Charles Boyle asked what is the difference between this and the previous applications? Attorney Scott Spears explained that the design was improved and this was a new type of facility. Anthony Barletta made a motion requesting the applicant provide mitigation to Location #2 - acoustic wall and then a peer view of both noise reports and submit these to the Board, Edward Loud seconded. Edward Loud made a motion to continue to February 10, 2016, Thomas Siracusa seconded. Anthony Barletta made a motion to close the hearing with exception of new mitigation and peer review, Edward Loud seconded, voted unanimously.



Case 23-15

Wilm. 4<sup>th</sup> of July Celebration

Map 66 Parcel 1

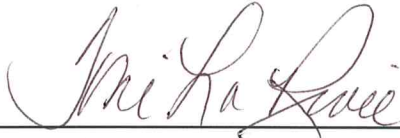
To acquire a Special Permit in accordance with §4.1.9 for a carnival to run from June 29, 2016 through July 3, 2016, (raindate July 4, 2016) for property located on 140-150 Middlesex Avenue.

Continued from December 9, 2015 - Edward Loud recused himself from the hearing. The Chairman informed all present that where only four (4) members were present to hear cases then any applicant had the option to request that their case be continued until such time as all five (5) members of the Board were present. The Chairman described the different voting and approval requirements for a four (4) member and a five (5) member Board.

Scott Garrant was present for the 4<sup>th</sup> of July Committee. He stated that they were planning on locating the carnival at the old Swain School site running from Wednesday through Sunday. The fireworks area would be off of Wildwood Street and parking would be at the High School - 173 spaces. Middlesex Avenue, School Street, Drury Lane and Glen Road would be closed to all but resident traffic. The carnival will consist of 15 rides and 14 booths and the hours of operation would be 10 p.m. Wednesday and Thursday, 10:30 p.m. on the weekend. Mr. Dean from Fiesta submitted photos of the rides, generators and mufflers. Scott stated that all horns on the rides would be disconnected and music turned off at 9 p.m. All employees would be CORI checked, insurance - \$10,000,000, and two detail officers would be hired to patrol the School/Loumac Street area. Daniel Veerman asked if there was some kind of insurance that could be sought for the direct abutters over and above what home owners insurance would cover. Jeff Hull dated that Town's do not do third party insurance in these instances. Charles Boyle asked if the risk was any greater now than it was during the last 35 years. Daniel Veerman stated that the risk was greater now because of the proximity of the carnival to the residential abutters. The Planning Board recommended approval. Charles Boyle read letters from abutters, Joseph Ferrante, who was in favor of the carnival, and Ronald & Suzanne Crooker, who were not in favor of the carnival, into the record. Abutters, Steve Dineen, Mary Lamont, Larry Gordon, Joe Mullins, R. Bernard, Susane Leiskau, Kathleen O'Donohue did not want the carnival - vibrations and possible damage to homes, area too small, damage to property, too many strangers going through neighborhood, possible drug use, don't want

attractive nuisance, venue is wrong, celebration has gotten too big. Rep. James Miceli sent a letter stating he was in favor of the carnival but wanted to see abutters concerns addressed. Abutters, residents and interested parties, Lori Hayes, Peter James, Dan Heffernan, Dick and Joan Searfoss, Dan Madori, Pam Griffin, Kim Gold, Chris Blaine, Deb Smith, Michael Champoux, Ruth James, Paul Melaragni, Lori Hayes and Audrey Reed were in favor of the carnival. Most felt that the Police and Fire Departments and other Town Departments had serve the Town well and assured neighbors that Public Safety was first and foremost. Daniel Veerman was still of the opinion that something more was need to assure safety of property for the direct abutters. Anthony Barletta was of the opinion that the Police Chief and Town Manager endorse this and trust their opinions. Daniel Veerman made a motion to continue, Anthony Barletta seconded. Voted to continue to February 10, 2016.

Motion to adjourn at 11:40 p.m. by Edward Loud, seconded by Thomas Siracusa.  
Voted unanimously.

A handwritten signature in cursive script, reading "Toni La Rivee", written in dark ink. The signature is fluid and stylized, with the first name "Toni" and last name "La Rivee" clearly distinguishable.

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Recording: Toni La Rivee, Secretary  
Board of Appeals